

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sportsoft LLC

\*

Serial No.: 10/518,865

\*

Art Unit: 3715

PCT Filed: June 18, 2003

\*

Examiner: Jack Yip

For: ATHLETIC GAME LEARNING  
TOOL, CAPTURE SYSTEM, AND  
SIMULATOR

\*

\*

REMARKS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The examiner has rejected claims 1, 2, 6-7, 9-10, 19-20, 41-42, and 46-48 of the instant application on the grounds that said claims are directed to nonstatutory subject matter and are anticipated by the Madden NFL 2002 video game, and claims 38-39 on the grounds of obviousness. For ease of reference, the Applicant addresses the nonstatutory subject matter rejection first, then the anticipation rejection and finally the obviousness rejection.

Nonstatutory subject matter: Applicant has added two new claims (claims 52 and 53) directed to apparatus on which the method is to be performed. The new claims are attached hereto and incorporated by reference. This rejection having been overcome, it is respectfully requested that the examiner withdraw this refusal and allow the application to issue.

Anticipation. To constitute anticipation, all material claimed features must be contained within the four corners of a single prior art reference. *See, e.g., Soundsciber Corp. v. US*, 175 Ct. Cl. 644 (1966); *Mueller Brass Co. v. Reading Indus., Inc.*, 352 F.Supp. 1357 (E.D. Pa. 1972).

With respect to claim 1, Madden NFL 2002 does not allow the user to “enter” players; data for the simulated players is resident on the user’s game console. The common definition of the verb “enter” in the software context means to “insert.” Madden does not allow or anticipate players to be entered directly. *See* Madden p. 14 (“[t]he players to “create” edit are players that are not in the game. You can either make them, or alter other insignificant players. [For example, c]hoose a black player to edit for the black players that need to be in the game....”) This feature is supported in the specification at Par. 0004, 0005 and 0007 (U.S. Patent No. 4,304,404 issued to Pundt and U.S. Patent No. 4,918,603 are “limited to predetermined plays and is unable to simulate play results **based upon input of individual player attributes....** Therefore, a need exists for a system that provides entry of . . . specific players along with their individual attributes in specific positions....”) (emphasis added). Furthermore, specific defense assignments were not available until the 2006 release of Madden. Exhibit 1 p. 4. In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to the players’ “vital statistics, general attributes, offensive/defensive attributes and specialized attributes which predict athletic performance,” the Madden NFL 2002 game console user is limited to the attributes and vital statistics contained within the game’s parameters; the user cannot import players or data for players as contemplated by the present invention. In addition, Madden requires the user to manually alter the statistics and attributes, whereas the present invention does not have such a limitation. This feature is supported in the specification at Par. 0004, 0005 and 0007 (U.S. Patent No. 4,304,404 issued to Pundt and U.S. Patent No. 4,918,603 are “limited to predetermined plays and is unable to simulate play results

**based upon input of individual player attributes....** Therefore, a need exists for a system that provides entry of . . . specific players along with their individual attributes in specific positions....”) In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Furthermore, specific defense assignments were not allowed until the 2006 release of Madden. Exhibit 1 p. 4. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to the phrase “placing each player in a formation,” as stated above, Madden does not allow or anticipate players to be entered directly and then placed in a formation. This feature is supported in the specification at Par. 0004, 0005 and 0007 (U.S. Patent No. 4,304,404 issued to Pundt and U.S. Patent No. 4,918,603 are “limited to predetermined plays and is unable to simulate play results **based upon input of individual player attributes....** Therefore, a need exists for a system that provides entry of . . . specific players along with their individual attributes in specific positions....”) (emphasis added). Moreover, Madden did not permit route adjustment and defensive alignment features at the time of invention. Furthermore, formations were not controllable in Madden at the time of invention. See Exhibit 1, p. 3. In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Furthermore, specific defense assignments were not allowed until the 2006 release of Madden. Exhibit 1 p. 4. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to the phrase “establishing a play based on the formation in which the moving pattern and activity of each player is defined,” Madden did not permit route adjustment and defensive alignment features at the time of invention. In addition, formations were not

controllable in Madden NFL 2002. See Exhibit 1, p. 3. Furthermore, specific defense assignments were not allowed until the 2006 release of Madden. Exhibit 1 p. 4. In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Accordingly, this feature is not subject to anticipation by Madden, and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to the phrase “simulating the play...” as stated above, Madden does not allow or anticipate players to be entered directly and then placed in a formation. Moreover, Madden did not permit route adjustment and defensive alignment features at the time of invention or allow control of formation. Furthermore, specific defense assignments were not allowed until the 2006 release of Madden. Exhibit 1 p. 4. This feature is supported in the specification at Par. 0004, 0005 and 0007 (U.S. Patent No. 4,304,404 issued to Pundt and U.S. Patent No. 4,918,603 are “limited to predetermined plays and is unable to simulate play results **based upon input of individual player attributes....** Therefore, a need exists for a system that provides entry of . . . specific players along with their individual attributes in specific positions....”) (emphasis added). In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to claim 48, Applicant cites the arguments in support of patentability as stated in pp. 2-3 herein and incorporates them by reference herein. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

With respect to claim 2, as stated above, the Madden NFL 2002 game console user is limited to the attributes and vital statistics contained within the game's parameters; the user cannot import either players or data for players as contemplated by the present invention. In addition, Madden requires the user to manually alter the statistics and attributes, whereas the present invention does not have such a limitation. Furthermore, specific defense assignments were not allowed until the 2006 release of Madden, well after the present application was filed. Exhibit 1 p. 4. This feature is supported in the specification at Par. 0004, 0005 and 0007 (U.S. Patent No. 4,304,404 issued to Pundt and U.S. Patent No. 4,918,603 are "limited to predetermined plays and is unable to simulate play results **based upon input of individual player attributes....** Therefore, a need exists for a system that provides entry of . . . specific players along with their individual attributes in specific positions....") In addition, the present invention is not limited to American style football but is suitable for a wide range of athletic events and sports. Accordingly, this feature is not anticipated by Madden and Applicant respectfully requests that the examiner withdraw the refusal.

Claims 6 and 7 are hereby cancelled.

With respect to claims 9, 10, 19, 20, 41, 42, 46 and 47, as stated above, Madden does not allow direct input of players or player data. Moreover, Madden did not permit route adjustment and defensive alignment features at the time of invention (see arguments on pp. 2-3 herein, incorporated herein by reference). Accordingly, these claims are not anticipated by Madden, and Applicant respectfully requests that the examiner withdraw the refusal.